

**REMARKS**

Claims 1, 4-6, 10-11, 14-17 and 19 have been amended. Claims 2-3, 7-9, 12-13 and 18 have been canceled. Minor amendments have been made to the specification. Reexamination and reconsideration are respectfully requested.

**Specification Objection**

In the Office Action, the specification was objected to as being unclear in using brackets to identify subheadings in the specification. Accordingly, by way of the substitute specification Applicants have deleted the brackets. Additionally, Applicants have corrected the error noted by the Examiner on page 20, line 5.

**Indefiniteness Rejections**

In the Office Action, claims 1-21 were rejected as being indefinite.

In particular, claims 1, 6, 11 and 17 were rejected in view of the phrases "being to be arranged" and "joined each other." Applicants have amended these claims to clarify that the swing frame structure is "arrangeable" in a swing upperstructure and that the various components are "joined to each other." Hence, Applicants submit these claims are now definite.

Claims 2, 7 and 12 were rejected as being indefinite in view of the phrase "plug-in structure portions." Accordingly, Applicants have amended the specification and claims to utilize the technical terminology of a "mortise and tenon joint."

Regarding the objection to claim 8, this claim has now been canceled. Additionally, Applicants have amended the specification to clarify that the "swing-circle-mounting surface" is a "swing-wheel-mounting surface."

Regarding claim 15, Applicants have correlated the "I-beams" with the claimed plates.

Regarding the objection to claim 16, Applicants respectfully note that the neutral axes of the side plates are clearly described in the specification, for example, at page 23, lines 14-23 and Figure 8. As such, one skilled in the art would understand the terminology within the context of the specification.

#### **Allowable Claims**

Applicants gratefully acknowledge the indicated allowability of claim 18 if rewritten into independent form. Accordingly, Applicants have amended base claim 17 to incorporate the limitations of allowable claim 18. As such, claim 17,

along with dependent claims 19-21, are now submitted to be in condition for allowance.

Applicants also gratefully acknowledge the allowability of claim 5. However, in view of the arguments in favor of the patentability of base claim 1, claim 5 has not yet been rewritten into independent form.

### **Prior Art Rejections**

In the Office Action, claims 1-4 and 6-10 were rejected as being anticipated by JP 292428, and claims 1-4 were also rejected as being obvious over Apgar in view of Savoy, et al., while claims 6-10 were also rejected as being obvious over Godwin et al. in view of Savoy, et al. In view of the amendments made with respect to independent claims 1 and 6, Applicants respectfully traverse these rejections.

Applicants have amended claim 1 to specifically recite that the swing frame structure includes mating portions for bringing the side plates and a reinforcement plate into engagement and position relative to each other. In that regard, the mating portions comprise mortise and tenon joints, which mortise and tenon joints include holes formed through the side plates and lugs formed on the reinforcement plate such that the lugs are insertable into the holes, respectively.

Applicants' claimed invention utilizing mortise and tenon joints advantageously minimizes the need for many jigs in order to hold the components together, which necessitates higher fabrication and man hour costs (see, for example, page 6, lines 1-14; page 8, lines 14-22; and page 27, lines 11-18).

In contrast, JP 292428 merely discloses a swing frame composed of a center frame and side plates 20D, 20B (see Figure 3). Nowhere is Applicants' claimed reinforcement plate disclosed in JP '428, let alone a mortise and tenon joint for mating the reinforcement plate with the side plates. In that regard, Figures 3 and 5 of JP '428 illustrate only a structure 20K that forms a frame for the side plates 20B, 20D. As shown therein, however, no mortise and tenon joint is provided between side plates 20B, 20D and frame 20K.

Therefore, because JP '428 fails to disclose a reinforcement plate, as well as a mortise and tenon joint for mating a reinforcement plate to the side plates, as a matter of law there can be no anticipation. Hence, Applicants respectfully submit at least claim 1 is patentable over JP '428.

Regarding independent claim 6, hereto the side plates and a bottom plate are joined to each other via mortise and tenon joints positioned on a side outside of a swing-wheel-mounting surface. This can be seen, for example, in Applicants' Figures 2 and 4, wherein the mortise and tenon joints 7c, 7d are positioned

outside of the swing-wheel-mounting surface 5c (see page 22, lines 5-7). By advantageously positioning the mortise and tenon joints outside of the swing-wheel-mounting surface, it becomes possible to prevent rain water penetration into the grease bath inside of the swing-wheel (see page 29, lines 8-14).

In contrast, JP '428 does not clearly show such structure, nor discuss any such advantages.

Accordingly, Applicants submit independent claim 6 is patentable over JP '428.

Regarding the rejection of claim 1 as obvious over Apgar in view of Savoy, Applicants likewise respectfully traverse this rejection.

In contrast to Applicants' claimed invention, Apgar merely discloses a frame assembly having side plates 62, 64 arranged with respect to first and second support plates 74, 86 (see column 3, lines 47-65). Apgar provides no teaching or suggestion with respect to the use of mortise and tenon joints in order to advantageously minimize the number of jigs necessary for construction of the frame assembly. Nor does the teachings of Savoy et al., which are directed to forming vehicle body-in-white structures, render obvious Applicants' claim 1. Savoy merely discloses an initial loose assembly utilizing "toy tabs." Such a loose assembly would appear to not provide the claimed relative positioning of

Applicants' side plates and reinforcement plate. Indeed, Savoy must utilize so-called "gate fixtures" to which the toy tab components must be clamped in order to form an accurate structure (see column 2, lines 11-19).

Accordingly, Applicants respectfully submit amended claim 1 is patentable over Apgar in view of Savoy.

Regarding the rejection of claim 6 as obvious over Godwin in view of Savoy, Applicants likewise respectfully traverse this rejection.

In contrast to Applicants' claim 1, as discussed above with respect to the rejection based on Apgar in view of Savoy, hereto the combination of Godwin in view of Savoy does not render obvious Applicants' amended claim 6. As discussed above, Savoy's use of "toy tabs" does not provide the relative positioning of the side plates and bottom plate as recited in Applicants' claim 6. Hence, Applicants respectfully submit claim 6 is patentable over Godwin in view of Savoy.

In the Office Action independent claim 11 was rejected as being obvious over JP 240102 in view of JP '428. Applicants respectfully traverse this rejection in view of the amendments to claim 11.

Applicants have amended claim 11 to recite that the mating portions for bringing the engine brackets and the side plates into engagement with each other for relative positioning comprise mortise and tenon joints.

In contrast, one skilled in the art would not be motivated to utilize mortise and tenon joints to attach the engine brackets and side plates of JP '102. Indeed, JP '428 merely discloses couplings of the side plates 20B, 20D, 20E, 20F and 20G (see Figure 8). Nowhere is there disclosed or suggested the use of mortise joints between engine brackets and side plates. As such, Applicants respectfully submit claim 11 is patentable over JP '102 in view of JP '428.

In view of the foregoing, Applicants respectfully submit pending claims 1, 4-6, 10-11, 14-17 and 19-21 are all in condition for allowance. An early notice to that effect is solicited.

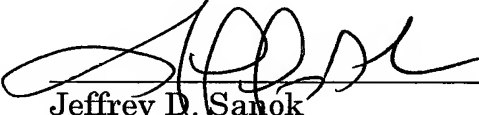
If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

Serial No. 10/563,215  
Amendment Dated: September 11, 2008  
Reply to Office Action Mailed: June 11, 2008  
Attorney Docket No. 080306.57204US

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #080306.57204US).

Respectfully submitted,

September 11, 2008

  
Jeffrey D. Sanok  
Registration No. 32,169

CROWELL & MORING LLP  
Intellectual Property Group  
P.O. Box 14300  
Washington, DC 20044-4300  
Telephone No.: (202) 624-2500  
Facsimile No.: (202) 628-8844  
JDS:njr  
dn#6316034